

1 AMENDMENT TO HOUSE BILL 2550

2 AMENDMENT NO. _____. Amend House Bill 2550 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mortgage Certificate of Release Act is
5 amended by changing Sections 5, 10, 15, 20, 35, 40, and 50
6 and by adding Section 10.1 as follows:

7 (765 ILCS 935/5)

8 (Section scheduled to be repealed on January 1, 2004)

9 Sec. 5. Definitions. As used in this Act:

10 "Mortgage" means a mortgage or mortgage lien on an
11 interest in one-to-four family residential real property in
12 this State given to secure a loan in the original principal
13 amount of less than \$500,000. Trust deeds are not included.

14 "Mortgagee" means either: (i) the grantee of a mortgage;
15 or (ii) if a mortgage has been assigned of record, the last
16 person to whom the mortgage has been assigned of record.

17 "Mortgage servicer" means the last person to whom a
18 mortgagor or the mortgagor's successor in interest has been
19 instructed by a mortgagee to send payments on a loan secured
20 by a mortgage. A person transmitting a payoff statement is
21 the mortgage servicer for the mortgage described in the
22 payoff statement.

1 "Mortgagor" means the grantor of a mortgage.

2 "Notice--of--intention--to--file--certificate-of-release"
3 means-a-statement-from-a-title--insurance--company--or--title
4 insurance--agent--to--the--person-to-whom-payment-of-the-loan
5 secured-by-the-mortgage--was--made--in--accordance--with--the
6 payoff--statement-of-the-intention-to-record-a-certificate-of
7 release.

8 "Payoff statement" means a statement for the amount of
9 the (i) unpaid balance of a loan secured by a mortgage,
10 including principal, interest, and any other charges due
11 under or secured by the mortgage; and (ii) interest on a per
12 day basis for the unpaid balance.

13 "Record" means to deliver the certificate of release for
14 recording with the county recorder.

15 "Title insurance agent" has the same meaning ascribed to
16 it as in Section 3 of the Title Insurance Act.

17 "Title insurance company" has the same meaning ascribed
18 to it as in Section 3 of the Title Insurance Act.

19 (Source: P.A. 92-765, eff. 8-6-02.)

20 (765 ILCS 935/10)

21 (Section scheduled to be repealed on January 1, 2004)

22 Sec. 10. Mortgage presently being paid off. Content-and
23 delivery--of--notice--of--intention--to--file--certificate-of
24 release-(a)-The Notice of filing intention--to--file a
25 certificate of release shall be evidenced by receipt of
26 payment pursuant to the lender's written payoff statement.
27 state--that-if-the-title-insurance-company-or-title-insurance
28 agent--does--not--receive--from--the--mortgagee--or--mortgage
29 servicer-or-its-successor-in-interest-either-a-release--or--a
30 written-objection-to-the-issuance-of-a-certificate-of-release
31 pursuant--to-subsection-(c)-of-this-Section, A certificate of
32 release may be delivered for recording to the recorder of
33 each county in which the mortgage is recorded together with

1 the other documents from the new transaction, including a
2 deed or new mortgage, or both. A notice of intention to file
3 a certificate of release should be in a form and include
4 content that substantially complies with Section 65 of this
5 Act. The notice of intention shall include a copy of the
6 closing statement or HUD-1 form and the payoff check or a
7 copy of it, or a copy of the wire transfer order.

8 (b) The notice of intention to file a certificate of
9 release shall be sent by certified mail, return receipt
10 requested, with postage prepaid, or by another service
11 providing receipted delivery, no sooner than the day of
12 closing and no later than 30 days after receipt of payment.
13 The notice shall be delivered to the location identified in
14 the payoff statement or as otherwise directed in writing by
15 the mortgagee or mortgage servicer or its successor in
16 interest. The notice may be sent with the payment, and need
17 not be sent separately.

18 (c) Within 90 days after receipt of the notice of
19 intention to file a certificate of release, the mortgagee or
20 mortgage servicer or its successor in interest may issue a
21 release or may object in writing to the issuance of a
22 certificate of release, and by doing so shall prevent the
23 title insurance company or title insurance agent from
24 executing and recording a certificate of release pursuant to
25 this Act. Any written objection submitted by the mortgagee or
26 mortgage servicer or its successor in interest shall state
27 the reason for which the release or certificate of release
28 should not be issued. The written objection shall be sent to
29 the title insurance company or title insurance agent by
30 certified mail, return receipt requested, with postage
31 prepaid, or by another service providing receipted delivery.
32 A title insurance company or title insurance agent shall not
33 cause a certificate of release to be recorded pursuant to
34 this Section if the title insurance company or title

1 insurance--agent--receives--a--written--objection--from--the
2 mortgagee-or-mortgage-servicer-or-its-successor-in-interest.
3 (Source: P.A. 92-765, eff. 8-6-02.)

4 (765 ILCS 935/10.1 new)

5 Sec. 10.1. Previously paid mortgages. A mortgage in the
6 chain of title that is unreleased of record but for which
7 there is evidence of it having been paid off in a prior
8 transaction, the evidence being in the form of the records of
9 the title insurance company or its duly appointed agent or by
10 the issuance by a title insurance company of its
11 hold-harmless letter or other document of indemnification to
12 another title insurance company that has relied on the same
13 to issue its title insurance policy without exception for the
14 mortgage or mortgages, then the title insurance company or
15 its duly appointed agent doing the closing of a new
16 transaction, whether a sale or refinance or other transaction
17 resulting in the issuance of a new title insurance policy,
18 again without exception for the mortgage or mortgages, may
19 issue and record a certificate of release without further
20 action, provided that the title insurance company or its duly
21 appointed agent does not have actual notice that the lender
22 opposes its release. A single mortgage certificate of release
23 may include more than one mortgage, including both presently
24 and previously paid mortgages.

25 (765 ILCS 935/15)

26 (Section scheduled to be repealed on January 1, 2004)

27 Sec. 15. Certificate of release. An officer or duly
28 appointed agent of a title insurance company may, on behalf
29 of a mortgagor or a person who has acquired from a mortgagor
30 title to all or part of the property described in the
31 mortgage, execute a certificate of release that complies with
32 the requirements of this Act and record the certificate of

1 release with the recorder of each county in which the
 2 mortgage is recorded, provided that payment of the loan
 3 secured by the mortgage was made in accordance with a written
 4 payoff statement furnished by the mortgagee or the mortgage
 5 servicer. The title insurance company or its duly appointed
 6 agent shall not be required to search the public record for a
 7 possible recorded satisfaction or release. ~~7--that--a~~
 8 ~~satisfaction-or-release-of-the-mortgage--has--not--previously~~
 9 ~~been--recorded,7--and--that--a--notice--of--intention--to--file--a~~
 10 ~~certificate-of-release-was-sent-in--accordance--with--Section~~
 11 ~~10.~~

12 (Source: P.A. 92-765, eff. 8-6-02.)

13 (765 ILCS 935/20)

14 (Section scheduled to be repealed on January 1, 2004)

15 Sec. 20. Contents of certificate of release. A
 16 certificate of release executed under this Act must contain
 17 substantially all of the following for each mortgage being
 18 released:

19 (a) The name of the mortgagor, the name of the original
 20 mortgagee, and, if applicable, the mortgage servicer at the
 21 date of the mortgage, the date of recording, and the volume
 22 and page or document number or other official recording
 23 designation in the real property records where the mortgage
 24 is recorded, ~~7--together-with-similar-information-for-the-last~~
 25 ~~recorded-assignment-of-the-mortgage.~~

26 (b) A statement that the mortgage was paid in accordance
 27 with the written payoff statement ~~received-from-the-mortgagee~~
 28 ~~or-mortgage-servicer~~ and there is no objection from the
 29 mortgagee or mortgage servicer or its successor in interest.
 30 The hold-harmless letter or other indemnification from a
 31 title insurance company, as provided in Section 10.1 of this
 32 Act, shall satisfy this requirement.

33 (c) A statement that the person executing the

1 certificate of release is an officer or a duly appointed
2 agent of a title insurance company authorized and licensed to
3 transact the business of insuring titles to interests in real
4 property in this State pursuant to subsections (2) and (3) of
5 Section 3 of the Title Insurance Act.

6 (d) A statement that the certificate of release is made
7 on behalf of the mortgagor or a person who acquired title
8 from the mortgagor to all or a part of the property described
9 in the mortgage.

10 (e) A statement that the mortgagee or mortgage servicer
11 provided a written payoff statement. The hold-harmless
12 letter or other indemnification from a title insurance
13 company, as provided in Section 10.1 of this Act, shall
14 satisfy this requirement.

15 (Source: P.A. 92-765, eff. 8-6-02.)

16 (765 ILCS 935/35)

17 (Section scheduled to be repealed on January 1, 2004)

18 Sec. 35. Effect of recording certificate of release. For
19 purposes of releasing the lien of the mortgage, a certificate
20 of release containing the information and statements provided
21 for in Section 20 and executed as provided in Section 25 is
22 prima facie evidence of the facts contained therein, and upon
23 being recorded with the recorder, shall constitute a release
24 of the lien of the mortgage described in the certificate of
25 release. The title insurance company or title insurance agent
26 recording the certificate of release may use the recording
27 fee it may have collected for the recording of a release or
28 satisfaction of the mortgage to effect the recording of the
29 certificate of release.

30 (Source: P.A. 92-765, eff. 8-6-02.)

31 (765 ILCS 935/40)

32 (Section scheduled to be repealed on January 1, 2004)

1 Sec. 40. Wrongful or erroneous certificate of release.
2 Recording of a wrongful or erroneous certificate of release
3 by a title insurance company or its title insurance agent
4 shall not relieve the mortgagor or the mortgagor's successors
5 or assignees from any personal liability on the loan or other
6 obligations secured by the mortgage. In addition to any other
7 remedy provided by law, a title insurance company executing
8 or recording a certificate of release under this Act that has
9 actual knowledge that the information and statements
10 contained therein are false is liable to the mortgagee for
11 actual damages sustained due to the recording of the
12 certificate of release. The prevailing party in any action
13 or proceeding seeking actual damages due to the recording of
14 a certificate of release shall be entitled to the recovery of
15 reasonable attorneys fees and costs incurred in that action
16 or proceeding. It shall not be wrongful or erroneous for a
17 title insurance company or its title insurance agent to
18 record a certificate of release after a lender's satisfaction
19 or release is of record.

20 (Source: P.A. 92-765, eff. 8-6-02.)

21 (765 ILCS 935/50)

22 (Section scheduled to be repealed on January 1, 2004)

23 Sec. 50. Form of certificate of release. A certificate
24 of release, in substantially the following form, allowing for
25 alterations to permit the inclusion of multiple mortgages,
26 both presently and previously paid, complies with this Act.

27 CERTIFICATE OF RELEASE

28 Date:.....Title Order No.:.....

29 1. Name of mortgagor(s):.....

30 2. Name of original mortgagee:.....

31 3. Name of mortgage servicer (if any):.....

32 ~~4. Name of last assignee of mortgage or record (if any):.....~~

33 4. 5. Mortgage recording: Vol.:.....Page:.....or Document

1 No.:.....

2 ~~6. Last assignment recording (if any):~~

3 ~~Vol.:.....Page:.....or Document No.:.....~~

4 5. 7. The above referenced mortgage has been paid in
5 accordance with the payoff statement received from..... and
6 there is no known objection from the mortgagee or mortgage
7 servicer or its successor in interest to the recording of
8 this certificate of release.

9 6. 8. The person executing this certificate of release is an
10 officer or duly appointed agent of a title insurance company
11 authorized and licensed to transact the business of insuring
12 titles to interests in real property in this State pursuant
13 to Section 30 of this Act.

14 7. 9. This certificate of release is made on behalf of the
15 mortgagor or a person who acquired title from the mortgagor
16 to all or part of the property described in the mortgage.

17 8. 10. The mortgagee or mortgage servicer provided a payoff
18 statement.

19 9. 11. The property described in the mortgage is as follows:

20 Permanent Index Number:.....

21 Common Address:.....

22 (Name of title insurance company)

23 By:.....

24 (Name of officer and title or name of agent and name of
25 officer / representative thereof)

26 Address:.....

27 Telephone No.:.....

28 State of Illinois)

29)

30 County of)

31 This instrument was acknowledged before me on(date) by

32(name of person) as(officer for / agent of)

33(title insurance company).

34

1 Notary Public

2 My commission expires on.....

3 (Source: P.A. 92-765, eff. 8-6-02.)

4 (765 ILCS 935/65 rep.)

5 (765 ILCS 935/90 rep.)

6 Section 20. The Mortgage Certificate of Release Act is
7 amended by repealing Sections 65 and 90.

8 Section 99. Effective date. This Act takes effect
9 December 31, 2003."